

REMARKS

Claims 46, 54-77, and 80-107 are pending in the present application. Claims 74 and 75 have been amended as described below. No new matter has been added.

Claim Objections

Claims 74 and 75 were objected to for allegedly failing to limit the subject matter of a previous claim (*Office Action, page 2*). Specifically, the Examiner stated that

Claims 74, 75 do not indicate that the end result is that the medicament and the surfactant are suspended in the propellant as a finely divided powder, as such, it appears that the end product of the process is greater in scope than the claimed aerosol formulation in claim 46.

Applicants have amended claim 74 and 75 to specify that the medicament and the surfactant are suspended in the propellant as a finely divided powder. Applicants submit that this obviates the objection.

Claims 59, 60, 81, 84-95, and 102-107 were objected to as being dependent on a rejected base claim, but "would be allowable ... if a terminal disclaimer is filed with respect to U.S. Pat. 6,524,557." (*Office Action, page 2*) An appropriate terminal disclaimer is enclosed herewith.

Therefore, Applicants request withdrawal of the objections to claims 59, 60, 74, 75, 81, 84-95, and 102-107.

Double Patenting Rejection

Claims 46, 54-58, 61-77, 80, 82-83, and 96-101 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, 10-41, 48-62, 74-105, and 114-127 of U.S. Patent No. 6,524,557 (*Office Action, pages 2-3*). An appropriate terminal disclaimer is enclosed herewith. Applicants submit that this terminal disclaimer obviates the rejection, and request withdrawal thereof.

Conclusion

Applicants respectfully submit that the claims as amended are allowable, and in light of the remarks made herein and the terminal disclaimer submitted herewith, request immediate allowance of all of the pending claims. The Examiner is invited to telephone the undersigned if he feels that it would expedite allowance of this application.

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Enclosed is a check for the Petition for Extension of Time fee and a check for the Terminal Disclaimer fee. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 06275-034001.

Date:

Feb. 23, 2005  
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Respectfully submitted,

  
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